

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

BRETT LORENZO FAVRE,

Plaintiff,

v.

PATRICK JUSTIN MCAFEE,

Defendant.

Case No. 2:23-cv-45-KS-MTP

**DEFENDANT’S MOTION TO DISMISS PLAINTIFF’S AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant Patrick Justin McAfee (“McAfee”), through his counsel, moves the Court to dismiss the Amended Complaint filed by Plaintiff Brett Lorenzo Favre (“Favre”). This motion is supported by the accompanying memorandum and the following attached exhibits:

- Exhibit A: Placeholder for conventionally filed disk containing excerpted segment of The Pat McAfee Show’s November 30, 2022 broadcast, available in full at <https://www.youtube.com/watch?v=ArwPSlqi1oU>.
- Exhibit B: *Audit of DHS Reveals Millions Wasted: Auditor’s Office Questions Over \$90 Million in Spending of Welfare Grants and Other Funds*, Mississippi Office of the State Auditor (May 4, 2020), also available at <https://www2.osa.ms.gov/news/auditor-of-dhs-reveals-millions-wasted/>.
- Exhibit C: *State of Mississippi Single Audit for Year Ending June 30, 2019*, Mississippi Office of the State Auditor (Apr. 30, 2020), also available at <https://www.osa.ms.gov/documents/single-audit/19sar.pdf>.
- Exhibit D: *Auditor Demands Repayment of Misspent Welfare Money: Multiple audits now confirm millions of dollars intended for the poor were spent illegally*, Mississippi Office of the State Auditor (Oct. 12, 2021), also available at <https://www2.osa.ms.gov/news/auditor-demands-repayment-of-misspent-welfare-money/>.
- Exhibit E: Complaint, *MDHS v. MCEC, Inc. et al.*, No. 25CI1:22-cv-00286-EFP (Miss. Cir. Ct. May 9, 2022), MEC No. 2.

- Exhibit F: MCEC’s Motion to Compel Dewey Phillip Bryant to Produce Documents Responsive to Subpoena Duces Tecum, *MDHS v. MCEC*, MEC No. 131.
- Exhibit G: Favre’s July 24, 2017 text to Nancy New: “John mentioned 4 million,” attached as exhibit 3 to MCEC’s Motion to Compel (Ex. F hereto), *MDHS v. MCEC*, MEC No. 131-3.
- Exhibit H: Favre’s August 3, 2017 text to Nancy New: “If you were to pay me is there anyway [sic] the media can find out where it came from and how much?,” attached as exhibit 7 to MCEC’s Motion to Compel (Ex. F hereto), *MDHS v. MCEC*, MEC No. 131-7.
- Exhibit I: Nancy New’s May 30, 2019 text to Favre: “We [Nancy New and John Davis] are on board!,” attached as exhibit 17 to MCEC’s Motion to Compel (Ex. F hereto), *MDHS v. MCEC*, MEC No. 131-17.
- Exhibit J: Bryant’s Response in Opposition to MCEC’s Motion to Compel the Honorable Phil Bryant to Produce Documents Responsive to Subpoena Duces Tecum, *MDHS v. MCEC*, MEC No. 140.
- Exhibit K: Anna Wolfe, *Phil Bryant had his sights on a payout as welfare funds flowed to Brett Favre*, Miss. Today (Apr. 4, 2022), also available at <https://mississippitoday.org/2022/04/04/phil-bryant-brett-favre-welfare-scandal-payout/>, cited in Bryant’s Opposition to MCEC’s Motion to Compel (Ex. J hereto), see *MDHS v. MCEC*, MEC No. 140 at 19.
- Exhibit L: Anna Wolfe, *‘You stuck your neck out for me’: How Brett Favre used fame and favors to pull welfare dollars*, Miss. Today (Apr. 6, 2022), also available at <https://mississippitoday.org/2022/04/06/brett-favre-used-fame-favors-welfare-dollars/>, cited in Bryant’s Opposition to MCEC’s Motion to Compel (Ex. J hereto), see *MDHS v. MCEC*, MEC No. 140 at 20.
- Exhibit M: Anna Wolfe, *Former Gov. Phil Bryant helped Brett Favre secure welfare funding for USM volleyball stadium, texts reveal*, Miss. Today (Sept. 16, 2022), also available at <https://mississippitoday.org/2022/09/13/phil-bryant-brett-favre-welfare/>, cited in Bryant’s Opposition to MCEC’s Motion to Compel (Ex. J hereto), see *MDHS v. MCEC*, MEC No. 140 at 17, 59.
- Exhibit N: Ashton Pittman & William Pittman, *In-Depth: How Brett Favre Got \$6 Million in Welfare Funds for a Volleyball Stadium*, The Miss. Free Press (Sept. 16, 2022), also available at <https://www.mississippifreepress.org/27465/in-depth-how-brett-favre-secured-6-million-in-welfare-funds-for-a-volleyball-stadium>, cited in Bryant’s Opposition to MCEC’s Motion to Compel (Ex. J hereto), see *MDHS v. MCEC*, MEC No. 140 at 17, 19, 41, 46.
- Exhibit O: First Amended Complaint, *MDHS v. MCEC*, MEC No. 197.

- Exhibit P: Order Denying Defendant Brett Lorenzo Favre's Motion to Dismiss the Amended Complaint, *MDHS v. MCEC*, MEC No. 352.
- Exhibit Q: Nancy New Indictment, *State v. Nancy New*, No. 25CI1:22-cr-00002-EFP (Miss. Cir. Ct. Jan. 13, 2022), MEC No. 1.
- Exhibit R: Zachary New Indictment, *State v. Zachary New*, No. 25CI1:22-cr-00003-EFP (Miss. Cir. Ct. Jan. 13, 2022), MEC No. 1.
- Exhibit S: Nancy New Petition to Enter a Plea of Guilty, *State v. Nancy New*, MEC No. 6.
- Exhibit T: Zachary New Petition to Enter a Plea of Guilty, *State v. Zachary New*, MEC No. 7.
- Exhibit U: John Davis Indictment, *State v. John Davis*, No. 25CI1:22-cr-00238-AHW (Miss. Cir. Ct. Apr. 8, 2022), MEC No. 3.
- Exhibit V: John Davis Order of *Nolle Prosequi*, *State v. John Davis*, MEC No. 14.
- Exhibit W: John Davis Plea Agreement, *United States v. John Davis*, No. 3:22-CR-104-DWR-FKB (S.D. Miss. Sept. 22, 2022), ECF No. 14.
- Exhibit X: Daniel Chavkin, *Report: Texts Show Brett Favre's Role in Mississippi Welfare Fraud Scandal*, Sports Illustrated (Apr. 8, 2022), also available at <https://www.si.com/nfl/2022/04/09/brett-favre-texts-mississippi-welfare-fraud-scandal>.
- Exhibit Y: Darrelle Lincoln, *ESPN Getting Blasted For Being Way Too Quiet About Brett Favre's Mississippi Welfare Scam (TWEETS)*, Total Pro Sports (Sept. 21, 2022), also available at <https://www.totalprosports.com/nfl/espn-getting-blasted-for-being-way-too-quiet-about-brett-favres-mississippi-welfare-scam-tweets/>.
- Exhibit Z: Mike Florio, *Former teammate calls out Brett Favre's involvement in welfare fraud*, NBC Sports (Sept. 22, 2022), also available at <https://profootballtalk.nbcsports.com/2022/09/22/former-teammate-calls-out-brett-favres-involvement-in-alleged-welfare-fraud/>.
- Exhibit AA: Carron J. Phillips, *The media needs to treat Brett Favre like it did Michael Vick and Colin Kaepernick*, Deadspin (Sept. 22, 2022), also available at <https://deadspin.com/the-media-needs-to-treat-brett-favre-like-it-did-michael-vick-1849568848>.
- Exhibit BB: Derek Major, *REPORT: LEGENDARY QUARTERBACK BRETT FAVRE STOLE MILLIONS FROM POOREST MISSISSIPPI RESIDENTS*, Black Enterprise (Sept. 23, 2022), also available at <https://www.blackenterprise.com/heres-how-former-quarterback-brett-favre-stole-millions-from-mississippi>.

[residents/#:~:text=NFL%20Hall%20of%20Famer%2C%20Brett,buid%20a%20new%20volleyball%20stadium.](#)

Exhibit CC: Shalise Manza Young, *Brett Favre's involvement in Mississippi welfare scandal is getting plenty of attention. But what about companies that still back him?*, Yahoo! Sports (Sept. 26, 2022), also available at <https://sports.yahoo.com/brett-favres-involvement-in-mississippi-welfare-scandal-is-getting-plenty-of-attention-but-what-about-companies-that-still-back-him-144533982.html>.

Exhibit DD: Maia Niguel Hoskin, *Is The Brett Favre Welfare Scandal A Case Of "The Rich Stealing From The Poor"?*, Forbes (Sept. 29, 2022), also available at <https://www.forbes.com/sites/maiahoskin/2022/09/29/is-the-brett-favre-welfare-scandal-a-case-of-the-rich-stealing-from-the-poor/?sh=20769bfa7120>.

Exhibit EE: Plaintiff MDHS's Response to Defendant Brett Favre's Motion to Dismiss, *MDHS v. MCEC*, MEC No. 320.

For the reasons set forth in the memorandum, as supported by the exhibits, McAfee respectfully requests that the Court grant his Motion to Dismiss Plaintiff's Amended Complaint, dismiss the Amended Complaint with prejudice, and grant such other and further relief as the Court deems just and proper.

Dated: April 28, 2023

Respectfully submitted,

/s/ Sarah A. Decker

Sarah A. Decker (admitted *pro hac vice*)

Thomas J. Smith (admitted *pro hac vice*)

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 28, 2023, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which will notify and serve all counsel of record.

/s/ Alex Purvis